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RULES OF CABLE TELEVISION

(c) Any motion hereunder which is not granted or otherwise expressly acted upon by the Board within 60 days after the filing thereof, shall be deemed denied.

(d) The filing or granting of any motion under this rule shall not operate as a stay of the Board's decision or order. A stay will be granted only for good cause shown.

SUBCHAPTER 16. BRIEFS

14:17-16.1 Filing and service

(a) No party to a proceeding shall, if the circumstances permit, be denied the right to file a brief and the Board, the Director or the presiding officer may in any proceeding require the filing of briefs.

(b) The Board, the Director or the presiding officer shall fix the time for the filing and service of briefs with due regard to size of the record, the nature, complexity and importance of the proceedings or of the issues involved provided, however, that the presiding officer may not allow more than 30 days for the filing and service of initial briefs and 15 days for the filing and service of answering and reply briefs, if any.

(c) The Board, the Director or the presiding officer may fix the order in which briefs shall be filed. Unless otherwise specifically directed by the Board, the Director or the presiding officer, briefs shall be filed simultaneously.

(d) All briefs shall be accompanied by proof of service upon all parties or their attorneys of record.

(e) Unless otherwise permitted or directed by the Board or the presiding officer, eight copies of each brief shall be furnished for the use of the Board or the Office.

(f) Requests for extension of time in which to file briefs shall be in writing served upon parties of record or their attorneys and submitted to the Board through the Office at least five days before the time fixed for filing such briefs.

14:17-16.2 Specifications as to briefs

(a) All briefs shall be as concise as possible and shall in all respects conform to the requirements of N.J.A.C. 14:17-15.2, except that the paper used shall not exceed 8½ x 11 inches in size and the binding shall be on the left margin.

(b) Briefs should contain a table of contents and an alphabetical list of cases and authorities cited with appropriate page references; a statement of questions involved; a concise statement of facts with reference to the testimony or exhibits where the evidence appears; the argument divided under

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appropriate headings into as many parts as there are points to be argued; proposed or requested findings and conclusions, and if directed, a proposed form of decision or order.

(c) Exhibits may be analyzed but should not be reproduced in the brief. If desired, exhibits may be reproduced in an appendix to the brief.

SUBCHAPTER 17. COMPLIANCE WITH ORDERS, DECISIONS AND RECOMMENDATIONS

14:17-17.1 Orders and decisions

Upon the issuance of an order or decision of the Board, the party to whom the same is directed must notify the Board through the Office on or before the date specified in said order or decision whether or not compliance has been made in conformity therewith.

14:17-17.2 Recommendations

(a) Upon the making of any recommendation by the Board the party to whom the same is directed must within 15 days after the making of the recommendation, unless otherwise specifically required, notify the Board through the Office of the acceptance or rejection thereof.

(b) Failure to comply with this rule will be deemed an acceptance of the recommendation.

14:17-17.3 Extension of time limits

In instances where the Board's decision or order contains a specific time or date for compliance, and the petitioner desires extension of such time limit, petition to the Board through the Office shall be made in writing at least five days before the expiration of the time limit.

14:17-17.4 Answers to communications

(a) Unless otherwise specified, any letter or telegram from the Board through the Office directing investigation of any matter under its jurisdiction must be complied with by the cable television company and a report received by the Office within 15 days from the date of the letter or telegram.

(b) If circumstances prevent compliance with this rule, the cable company must advise the Board through the Office, in writing within the period prescribed in N.J.A.C. 14:17-17.3, of its inability to comply and the reasons therefor.

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SUBCHAPTER 18. CATV RATE REGULATION UNDER A COMMON TARIFF

Authority

N.J.S.A. 48:54-10b and 48:5A-11

Source and Effective Date

R.1983 d.435, effective October 3, 1983.

See 15 N.J.R. 1356(a), 15 N.J.R. 1673(a).

Executive Order No. 66(1978) Expiration Date

Pursuant to the requirements and criteria of Executive Order No. 66(1978), this subchapter expires on October 3, 1988.

Historical Note

Unless otherwise expressly noted, all provisions of this subchapter were filed on April 14, 1978, as R.1978 d.125, to become effective on April 17, 1978. See: 10 N.J.R. 124(a), 10 N.J.R. 207(a). The subchapter was repealed and new rules were adopted by R.1983 d.435, effective October 3, 1983. See: 15 N.J.R. 1356(a), 15 N.J.R. 1673(a).

14:17-18.1 Definitions

The following words and terms, when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

"Competitive System" means any cable television system which lies wholly within the Grade A contours of at least three major network broadcast signals shall be defined as a "competitive system". The boundaries of Grade A contours in the State of New Jersey shall be delineated as defined by the Federal Communications Commissioner at 17 CFR §73.683(a).

"Classical system" means a cable television system, any part of which is located outside the Grade A contours of at least one major network broadcast station.

"Basic service," for the purposes hereof, means a cable television system's must-carry signals as required by the Federal Communications Commission in its rules or, in the absence of such a Federal requirement, such broadcast signals as would be considered must-carry signals under the rules in effect on April 15, 1981, plus all promised access and local origination channels.

14:17-18.2 Rate structures

(a) The Office with the approval of the Board will establish, subject to modification after full public hearing, maximum rates for basic service in each of the following categories:

1. Classical systems;
2. Competitive systems.

(b) For the purpose of establishing a maximum ceiling rate for each level of service the Office, with the approval of the Board, shall establish, subject to modification after full public hearing, maximum rates for each additional channel of service to be provided in the minimum cable television service package to be received by all cable television subscribers such package to always include basic service.

(c) Subject to the provisions below, a cable television company may increase or decrease its rates at its discretion up to the maximum established by the Office for each level of service in its category.

14:17-18.3 Participation

(a) Any cable television company in the State of New Jersey may establish rates under the provisions of this subchapter subject to the following terms and conditions:

1. In the first 12-month period following its election to avail itself of rates under this subchapter, a cable television company shall be entitled to increase its monthly charge for a primary connection each for level of service by an amount not to exceed \$.50.

2. In the second 12-month period it shall be entitled to increase its monthly charge for each level of service by not more than an additional \$.75.

3. Thereafter, the cable television company is entitled to increase its rates to the class ceiling for each level of service set by the Board and the Office without limitation.

4. The entitlement to raise rates to a specific level in any 12-month period shall not be lost if not exercised by the company within that 12 month period, but shall be cumulative.

5. A cable television company may reduce its rates at its discretion without impairment of its ability to increase those rates directly to its preexisting maximum allowable rate. Any such reduction or increase in rates shall not be unjustly preferential or discriminatory to any class of existing customers, except that nothing herein shall be construed as prohibiting the provision of free service to schools and libraries.

6. A company with a preexisting rate higher than the class ceiling may avail itself of the provisions of this subchapter and its ceiling is deemed to be its preexisting higher rate, however nothing herein shall be construed to allow such company to raise its rates above such preexisting higher rates.

7. A cable television company which has received an increase in rates in a separate proceeding before the Board and which subsequently elects to be governed by the provisions of this subchapter shall not be entitled to increase its rates under the provisions of this subchapter for a

period of nine months following the effective date of the increase in rates allowed in the separate proceeding before the Board.

8. An election by a cable television company to avail itself of the rates under this subchapter will preclude it from petitioning for an increase in rates through an individual proceeding before the Board for a period of 18 months following such an election, or for a period of 12 months following the implementation of any increase in rates pursuant to the provisions of this subchapter above its previous high rates, whichever is later.

14:17-18.4 Implementation of tariff changes

(a) A cable television company may elect to be governed by the provisions of this subchapter by submitting written notice to that effect to the Director of the Office and servicing a copy of same upon the municipal clerks in each of the municipalities in which it renders cable television service. A newly franchised municipality added to a system that is a common tariff member shall have, as its anniversary date, its Certification date.

(b) A cable television company desiring to implement a change in its rates pursuant to the provisions of this subchapter shall submit to the Office at least 60 days in advance of the effective date of the increase, a letter reaffirming its classification or, if necessary, documenting and requesting any change thereof, as well as including a tariff revision setting forth the new rates for service. Additionally, each cable television company that makes a filing under this subsection shall, unless otherwise ordered or permitted by the Board or Director, give notice thereof, at least 60 days prior to the effective date of the requested increase, as follows:

1. Serve a notice of the filing and a copy of the proposed tariff or a copy of the letter or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered cable television service, the charge for which is proposed to be increased.

2. Serve a notice of the filing and a statement of the effect on subscribers of various classes on all current subscribers who are billed on a recurring basis and who will be affected by said filing. Such notice must be by bill insert.

3. Proof of service and/or notice, together with a revised tariff, shall be filed with the Office at least five days in advance of the effective date of the increase. Failure to so file such documents will, absent a contrary notice from the Office, automatically cause the implementation of new rates to be delayed an additional 30 days.

(c) In the absence of contrary notice from the Office, the new rates may be implemented 60 days after filing and making of public notice. In the event of proposed classification changes, either requested by the opera-

tor or proposed by the Office, implementation of new rates would be postponed for a maximum of an additional 30 days. If no agreement can be reached within such 30 day period, the new rates would be implemented under bond pending a formal rate decision by the Office.

(d) Notwithstanding any definitions in this subchapter to the contrary, a cable television company may request, or the Office may propose that the classification of such company be revised, based on off-air signal quality, viewer habits and subscriber penetration levels.

(e) Notwithstanding any provisions in this subchapter to the contrary, no common tariff increase shall be permitted in a newly franchised municipality that does not have service available to all residents promised service in the initial system build, exclusive of areas to be constructed under a line extension formula.

(f) Notwithstanding any provisions in this subchapter to the contrary, absent a showing of necessity at a public hearing, all municipal franchise provisions as to rate freeze guarantees will take precedence over an otherwise allowable rate increase.

(g) Notwithstanding any provisions in this subchapter to the contrary, should a company elect to remove a channel or channels of additional service from any tiered level of service, its rate ceiling and its then rate for such level of service shall each be reduced by the incremental maximum rate for such additional channel or channels of service.

14:17-8.5 Provision of inadequate service

Public hearings, to be scheduled at the Director's discretion concerning the service aspects of cable television system shall be held throughout the State of New Jersey. If pursuant to such a hearing or as the result of an independent evaluation by the Office it is found that a company has failed to provide promised services or facilities, the Board may schedule a hearing thereon. Upon a finding by the Board following hearing upon notice that a cable television company is failing to provide such services or facilities, a designated portion of the primary monthly service rate not to exceed \$1.00 per subscriber may be ordered deposited into an escrow fund. The monies in the escrow fund shall be utilized with the approval of the Director for the purpose of rectifying the inadequacies found to exist.

APPENDIX I COMMON TARIFF MAXIMUM RATE

Service Level	First Year	Second Year	Third Year
Level I 12 or less channels	\$8.00	\$8.25	\$8.50
Level II More than 12 channels	\$9.25	\$9.50	\$9.75
Level III Maximum for each discretionary channel beyond FCC must carries	25¢ each until LEVEL IV	25¢ each until LEVEL IV	25¢ each until LEVEL IV
Level IV Maximum total for all basic channels	\$11.50	\$12.25	\$13.00
Additional TV, VCR, FM outlets, or other ancillary equipment	2.75	3.00	3.25
Additional Converters	1.00	1.00	1.00
VCR and other Ancillary Equipment (no external splitting of signal)	N/C	N/C	N/C

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terms and conditions

The following charges shall apply to all levels:

1. The maximum charges for ancillary services shall be:

Installation/Relocation

Residential
(Standard only)

\$40.00, installation or relocation of primary set; \$5.00 FM/Additional outlets, etc. on same order; \$15.00 VCR or ancillary equipment on same call. Primary set charge is \$20.00 for installation only if there is pre-existing drop wiring.

Commercial

Time and material as established in approved tariff, filed in accordance with the rules of the OCTV; prorated on basis of actual time spent.

Reconnection and/or

\$30.00 Primary Set; \$5.00

Subsequent Installation

FM/Additional Outlets etc.

Unnecessary trip charge
as defined below

\$20.00

2. Basic monthly service to commercial establishments shall be charged at the same rate as residential primary service for each set. Installation shall be based on pro-rated time cost of loaded labor and material, as filed in accordance with the rules of the Office of Cable Television. Hotel/Motel rates shall be the subject of separately filed tariffs.

3. Converter rentals are included in the schedule of maximum rates for the first set in levels I-IV. Converters for additional sets may be rented at no more than \$1.00 per additional set. However, converters are not mandatory for additional outlets per FCC policy.

4. Must carry channels are those broadcast stations whose signal a given system is required to carry pursuant to 47 C.F.R. 76.51 et seq. (Subpart D), as amended.

5. Level III rates apply to both imported distant broadcast signal and satellite cable channels which are offered as part of the system's basic service package. Access and local origination channels required in the franchise are not includable. A jointly used channel combining different programming services may be counted only once. It does not apply to unused channels, and leased channels, and alpha numeric channels.

6. A tariffed unnecessary trip charge shall be allowable for all unnecessary service calls as defined herein. An unnecessary service call is one where the problem is not due to the facilities or services provided by the company. There shall be no charge imposed for the first such call to each subscriber, unless the call is related to failure caused by subscriber installed ancillary equipment or defective subscriber owned ancillary equipment. If the company advises the subscriber in writing that a service call is an unnecessary call, and if the subscriber makes an additional call for service within 1 year of the first service call and if the company again finds that the service call is an unnecessary service call, then the company shall be entitled to charge a maximum of \$20.00 for the additional unnecessary service call.

Appendix I completely amended in 16 N.J.R. 2849(b).